

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 542**

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**Introduced by Senator Mendoza**

February 26, 2015

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An act to amend Section ~~139.43~~ 5307.8 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 542, as amended, Mendoza. Workers' compensation: *home health care services: fee schedules.*

*Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director to adopt an official medical fee schedule that establishes reasonable maximum fees paid for specified medical services related to workers' compensation. Existing law also requires the administrative director to adopt a schedule for payment of home health care services that are not covered by a Medicare fee schedule and are not otherwise covered by the official medical fee schedule. Existing law requires this fee schedule to be based on the maximum service hours and fees set forth in provisions of law governing in-home supportive services.*

*This bill would authorize, rather than require, the fee schedule to be based on either the maximum service hours and fees set forth in provisions of state law governing in-home supportive services or other state or federal home health care services fee schedules, as specified.*

~~Existing law prohibits a person or entity, other than physicians or attorneys, from advertising, printing, displaying, publishing, distributing,~~

~~or broadcasting in any manner a statement concerning services or benefits to be provided to an injured worker, which is paid for by that person or entity that is false, misleading, or deceptive. Violation of these provisions is a misdemeanor punishable by incarceration in the county jail for not more than one year, or by a fine not exceeding \$10,000, or by both that imprisonment and fine.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5307.8 of the Labor Code is amended to  
2     read:  
3     5307.8. (a) Notwithstanding Section 5307.1, ~~on or before July~~  
4     ~~1, 2013,~~ the administrative director shall adopt, after public  
5     hearings, a schedule for payment of home health care services  
6     provided in accordance with Section 4600 that are not covered by  
7     a Medicare fee schedule and are not otherwise covered by the  
8     official medical fee schedule adopted pursuant to Section 5307.1.  
9     The schedule shall set forth fees and requirements for service  
10    providers, and ~~shall may be based on the upon, but is not limited~~  
11    ~~to, being based upon, either of the following:~~  
12    (1) The maximum service hours and fees as set forth in  
13    regulations adopted pursuant to Article 7 (commencing with  
14    Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare  
15    and Institutions Code. ~~No fees shall~~  
16    (2) A state or federal home health care services fee schedule  
17    other than the schedule described in paragraph (1), including a  
18    fee schedule authorized for purposes of the Medi-Cal program or  
19    a fee schedule administered by the federal Director of the Office  
20    of Workers' Compensation Programs.  
21    (b) Fees shall not be provided for any services, including any  
22    services provided by a member of the employee's household, to  
23    the extent the services had been regularly performed in the same  
24    manner and to the same degree prior to the date of injury. If  
25    appropriate, ~~an attorney's fee fees~~ for recovery of home health  
26    care services fees under this section may be awarded in accordance  
27    with Section 4906 and any applicable rules or regulations.

1     SECTION 1. ~~Section 139.43 of the Labor Code is amended to~~  
2     ~~read:~~

3     ~~139.43. (a) A person or entity shall not advertise, print, display,~~  
4     ~~publish, distribute, or broadcast, or cause or permit to be advertised,~~  
5     ~~printed, displayed, published, distributed, or broadcast in any~~  
6     ~~manner, a statement concerning services or benefits to be provided~~  
7     ~~to an injured worker, which is paid for directly or indirectly by~~  
8     ~~that person or entity and is false, misleading, or deceptive, or that~~  
9     ~~omits material information necessary to make the statement therein~~  
10    ~~not false, misleading, or deceptive.~~

11    ~~(b) As soon as reasonably possible, but not later than January~~  
12    ~~1, 1994, the administrative director shall adopt regulations~~  
13    ~~governing advertising by persons or entities other than physicians~~  
14    ~~and attorneys with respect to services or benefits for injured~~  
15    ~~workers. In promulgating regulations pursuant to this subdivision,~~  
16    ~~the administrative director shall review existing regulations,~~  
17    ~~including those adopted by the State Bar, to identify those~~  
18    ~~regulatory approaches that may serve as a model for regulations~~  
19    ~~required by this subdivision.~~

20    ~~(c) A violation of subdivision (a) is a misdemeanor, punishable~~  
21    ~~by incarceration in the county jail for not more than one year, or~~  
22    ~~by a fine not exceeding ten thousand dollars (\$10,000), or by both~~  
23    ~~that imprisonment and fine.~~

24    ~~(d) This section shall not apply to physicians or attorneys. It is~~  
25    ~~the intent of the Legislature to exempt physicians and attorneys~~  
26    ~~from this section because the conduct regulated by this section,~~  
27    ~~with respect to physicians and attorneys, is governed by other~~  
28    ~~provisions of law.~~